National Rural Electric
Cooperative Association
A Touchstone Energy® Cooperative

March 31, 2010

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: 13 State Cable Associations Letter Dated March 18, 2010, WC Docket No. 07-245

Dear Ms. Dortch:

While NRECA has no desire to engage in an endless back-and-forth with the state cable associations via ex parte filings, to set the record straight we are compelled to respond to some of the most egregious inaccuracies made in their March 18, 2010 letter.

Percentage of Poles with Attachments

The state cable associations offer two theories – both erroneous – for why "only" 25% of cooperative-owned poles, based on 2003 NRECA data, had a communications attachment. They suggest that either (a) 75% of cooperative members have no wireline phone service or cable service, or (b) all communications facilities are underground or on some other pole line. The associations further posit that this "low" penetration of attachments suggests that cooperatives "have been extremely inhospitable to communications companies." It is the state associations' suggestions, however, that are "at odds with reality" and which demonstrate the associations' fundamental lack of understanding regarding electric cooperatives' service territory.

Simply put, electric cooperatives have a lot of poles to serve relatively few consumers. The U.S. Department of Agriculture, using the Commission's own data, affirms the fact that broadband provision follows a geographical pattern tied to population size.[1] Add lower incomes and declining populations[2] to low density and you have a recipe for areas that, wholly apart from pole attachments, the state cable associations' members apparently find economically inhospitable for broadband deployment.

Furthermore, the percentage of poles with attachments will never approach 100% because some cooperative poles do not serve a residence or other facility needing cable television or telecommunications services. While there is considerable diversity in the rural economy, rural America is still home to much of the nation's farming, ranching, mining and forestry operations. Pole lines serving irrigation pumps, feedlots, grain silos and other facilities are not likely to have attachments to deliver cable television or telecommunications services.

[1] USDA Economic Research Service, *Broadband Internet's Value for Rural America* (Aug. 2009), available at: http://www.ers.usda.gov/Publications/ERR78/ERR78d.pdf.
[2] USDA Economic Research Service, *Rural America At a Glance* (2009 ed.), available at: http://www.ers.usda.gov/Publications/EIB59/EIB59.pdf.

Purported Examples of "Too High" Rates

The state cable associations' letter also seeks to distort reality by offering supposed examples of allegedly high pole rates to bolster their claims that more regulation is needed. They allege that such rates are not based upon actual costs and even suggest that cooperative costs would generate a rate "multiples *lower* than the ones that the unregulated pole owners seek to charge." The cable associations are wrong.

First, the example from Arkansas discussed on pages 2 and 3 of the state cable associations' letter is that of a *proposed* rate range being vetted in a state utility commission proceeding.[3] The associations quote a very low attachment rate, offered by the cable operator witness in that pending case, using the FCC *cable* formula. The state cable associations conveniently neglect to mention that at issue in that case are *telecommunications* attachments,[4] which under the current regulatory scheme, are subject to a different FCC formula that produces a significantly higher rate than the cable attachment rate quoted by the cable operator's witness.

Second, the state cable associations argue that cooperatives' true costs "are not materially different than those of investor-owned utilities." This is simply false. NRECA has analyzed the distribution plant expenditures (which include poles and pole supports) per consumer across electric industry segments and consistently found that cooperative's costs are significantly higher than those of investor-owned and municipal utilities, in the range of 20% higher on average. The reasons are low consumer density and the need for more plant to reach consumers in remote and or difficult terrain areas. Cooperatives' plant costs are also rising at the rate of approximately 4% per year. These cost differences will be reflected in cooperative pole attachment rates.

Third, and perhaps most troubling, is the state cable associations' claim that, "In the worst cases, high pole costs extinguish broadband deployment and put cable systems out of business."[5] The statement is simply without merit. The state cable associations' claim that Alliance Communications was forced to shut down its cable operations in Perryville and Greers Ferry, Arkansas, due to exorbitant pole related costs is misleading at best. Notwithstanding Alliance Communications' failure – for whatever reason – both cable and broadband services are apparently alive and well in Perryville and Greers Ferry, Arkansas.[6]

We believe that any disparity between cooperatives' rates and regulated utilities' rates is more likely a reflection of cooperatives' significantly higher costs and the fact that the FCC's pole attachment rate formulas, as prescribed by Section 224 of the Communications Act, allocate costs in a manner that

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[3] The Arkansas Public Service Commission certified to the Commission in October 2008 that it had adopted rules governing rates, terms and conditions for pole attachments. Electric cooperatives are subject to the Arkansas Commission's jurisdiction.

[4] See, CoxCom, Inc. v. Arkansas Valley Elec. Coop. Corp., No. 09-133-C, (complaint filed Dec. 29, 2009), available at: http://www.apscservices.info/pdf/09/09-133-c_1_1.pdf, ("Cox has attached its communications wires ... to provide a host of competitive communications services, including video, high-speed internet , and digital phone service...").

[5] State cable associations' letter at 4.

[6] According to broadbandcensus.com, FCC data indicates that area code 72067 (Greers Ferry, AR) is served by six broadband service providers. The Broadband Census indicates one provider, Cox Communications. See, http://broadbandcensus.com/zipcodes/lookup/72067. Also according to broadbandcensus.com, FCC data indicates that area code 72126 (Perryville, AR) is served by five broadband service providers. The Broadband Census indicates one provider, Cox Communications. See, http://broadbandcensus.com/zipcodes/lookup/72126.

heavily favors attachers – especially cable attachers – at utility ratepayers' expense. These FCC formulas were not designed with cooperative accounting methodologies in mind.

The State Cable Associations' Fear of Cooperatives as Competitors

The state cable associations fear increasing competition by cooperatives offering direct broadcast satellite and other telecommunications services. Indeed, a number of cooperatives provide such services to their consumers. Ask these cooperatives why they got into the business, and you will often get this response: "Because no one else would provide service here." Many provide these communications services to residents on a non-profit, cooperative basis. They do it because the areas they serve are simply too remote and/or sparsely populated to profitably deploy a wireline telecommunications platform.

Make no mistake. The state cable associations seek to shield themselves from competition, not just from electric cooperative competitors, but against ALL actual and potential competitors. The cable industry brags on the one hand that cable high-speed Internet service passes 92% of American homes, yet on the other hand bemoans that costs are supposedly just too high to reach the last 8%. Under the guise of advancing rural broadband deployment, cable operators are really seeking to have their infrastructure costs heavily subsidized through low attachment rates for *every* pole to which they attach nationwide.

As NRECA has stated in its comments and earlier ex parte communications, we believe that if the Commission truly wants to advance the goal of universal broadband, then the right solution is not more pole attachment regulations and subsidies. The technology-neutral, pro-competitive solution is universal service fund reform.

Respectfully submitted,

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